

DRAFT/August 23, 2017
CONFIDENTIAL: FOR SETTLEMENT NEGOTIATION PURPOSES ONLY

Commented [CL1]: All internal references to Sections and paragraphs and cross-references with AOC need to be checked as many are inaccurate.

Pre-RD Group Draft dated ~~August 24~~September 22, 2017
PRE-REMEDIAL DESIGN INVESTIGATION AND BASELINE SAMPLING
STATEMENT OF WORK
PORTLAND HARBOR SUPERFUND SITE
Portland, Multnomah County, Oregon
EPA Region 10

XX 2017

DRAFT
FOR SETTLEMENT PURPOSES ONLY

TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	COMMUNITY INVOLVEMENT	2
3.	PREREMEDIAL DESIGN INVESTIGATION AND WORK PLAN.....	2
4.	REPORTING	5
5.	DELIVERABLES	6
6.	SCHEDULES	10
7.	STATE AND TRIBAL AND AGENCY PARTNER PARTICIPATION	13
8.	REFERENCES	13

1. INTRODUCTION

- 1.1 Purpose of the SOW.** This Statement of Work (SOW) sets forth the procedures and requirements for implementing the pre-remedial design investigation and baseline sampling (Work) at the Portland Harbor Superfund Site (Site) to identify existing conditions at the Site, to reevaluate technology assignments for the Site, and to provide information needed for allocation of site costs and other purposes identified in the Record of Decision (ROD) in accordance with the Administrative Settlement Agreement and Order on Consent (ASAOC). The Parties recognize that the data gathered in this Work is not the complete data set for remedy design/implementation and that EPA's review of the data reports or data analysis may include an assessment as to whether the data relied on is sufficient to support the certain PDI evaluations, refinements, recalculations and updates. EPA reserves the right to review all submittals prepared under the Work Plan. The purpose of this SOW is described in more detail in Section 3.1 of the ASAOC.
- 1.2 Structure of the SOW.** Section 2 (Community Involvement) sets forth EPA's and Respondents' responsibilities for community involvement. Section 3 (Pre-remedial Design Investigation and Work Plan) sets forth the process for developing the pre-remedial design investigation (PDI), which includes the submission of specified primary deliverables. Section 4 (Reporting) sets forth Respondents' reporting obligations. Section 5 (Deliverables) describes the content of the supporting deliverables and the general requirements regarding Respondents' submission of, and EPA's review of, approval of, comment on, and/or modification of, the deliverables. Section 6 (Schedules) sets forth the schedule for submitting the primary deliverables, the supporting deliverables that must accompany each primary deliverable, and the schedule of milestones regarding the completion of the PDI. Section 7 (State, Tribal and Agency Partner Participation) addresses EPA's responsibility to coordinate with State, Tribal and Agency Partner participation. Section 8 (References) provides a list of references, including web addresses.
- 1.3 Remedy.** The remedy selected by EPA for the Site is described in detail in Section 14 of the Record of Decision (ROD) issued by EPA in January 2017.
- 1.4 Scope of Work.** This SOW covers only the sampling and reporting work described in the attached Work Plan (Attachment A).
- 1.5 Definitions.** Terms used in this SOW that are defined in CERCLA, in regulations promulgated under CERCLA, or in the ASAOC, have the meanings assigned to them in CERCLA, in such regulations, or in the ASAOC, except that the term "Paragraph" or "¶" means a paragraph of the SOW, unless otherwise stated.
- 1.6 Dispute Resolution.** Any dispute concerning the SOW shall be initiated under and subject to Section XIV of the ASAOC.

Commented [KE2]: Pre-RD Group's insertion of text in the AOC and SOW stating that this SOW's purpose includes "to reevaluate technology assignments for the Site...." is a departure from the purpose of this AOC/SOW. EPA maintains that the primary purposes of this AOC/SOW are to collect data for Pre-RD SMA delineation, which will assist with allocation and to collect baseline data to establish existing site conditions for long-term monitoring. Notably, technology assignments within SMAs are based on other information components (e.g. erosion/deposition, slope, propeller wash) that are not entirely informed by Pre-RD SMA delineation sampling and more appropriate for the design phase that is outside this AOC/SOW.

Commented [CL3]: EPA did not approve this change from last draft. Also see cross reference to Paragraph 3.1 in AOC.

Formatted: Font: Bold

Formatted: Font: Bold

Commented [CL4]: They don't want to provide copies to Trustees and Tribes. EPA had not agreed to their refusal to provide info/deliverables or likely invite Trustees and Tribes to meetings, etc. See Section 8 below on this issue too.

Commented [CL5]: The SOW contains commitments and obligations not found in AOC and likely not in the Work Plan. We typically call all reporting and sampling and other activities is the "Work" not just the sampling.

2. COMMUNITY INVOLVEMENT

2.1 Community Involvement Responsibilities

- (a) EPA has the lead responsibility for developing and implementing community involvement activities at the Site. During the remedial investigation/feasibility study (RI/FS) phase, EPA developed a Community Involvement Plan (CIP) for the Site. Pursuant to 40 C.F.R. § 300.435(c), EPA shall review the existing CIP and determine whether it should be revised to describe further public involvement activities that are not already addressed or provided for in the existing CIP.
- (b) If requested by EPA, Respondents shall support EPA's community involvement activities. This may include providing online access to initial submissions and updates of deliverables to: (1) Community Advisory Groups; (2) Technical Assistance Grant recipients and their advisors; and (3) other entities identified by EPA. All community involvement activities conducted by Respondents at EPA's request are subject to EPA's oversight.
- (c) If requested by EPA, Respondents shall explore the possibility of participating in EPA's Superfund Job Training Initiative program (SuperJTI). This program provides job training to communities affected by Superfund Sites. Respondents will have input into the selection of ~~any~~ JTI candidates proposed to be involved in the Work.
- (d) **Respondents' CI Coordinator.** If requested by EPA, Respondents shall, within 15 days, designate and notify EPA of their Community Involvement Coordinator (Respondents' CI Coordinator). Respondents may hire a contractor for this purpose. Respondents' notice must include the name, title, and qualifications of the Respondents' CI Coordinator. Respondents' CI Coordinator is responsible for providing support regarding EPA's community involvement activities, including coordinating with EPA's CI Coordinator regarding responses to the public's inquiries about the Site.

Commented [SC6]: Strikeout per Laura Knudsen comment provided 10-2-17

Commented [CL7]: This paragraph is revised from EPA's language but not redlined. Need to check with Sean/Laura that this revised language is ok.

3. PRE-REMEDIAL DESIGN INVESTIGATION AND WORK PLAN

- 3.1 **Scope of Pre-Remedial Design Investigation (PDI).** The purpose of the PDI is described in the **ASAOC in Section 3.1** and the scope of the Work is set forth in the **this SOW and Work Plan** (Attachment A). **The Work Plan** ~~it~~ includes tasks as further described in Attachment A of this SOW:

- Site-wide bathymetry
- Surface sediment sampling
- Fish tissue sampling
- Surface water sampling

Commented [CL8]: Note they have cross-referenced 3.1 of AOC, so need to make sure we can agree to that.

Formatted: Font: Bold

Commented [CL9]: The SOW has obligations the Work Plan does not address.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

- Sediment coring
- Fish tracking study
- Camera study
- Downtown Reach/Upstream Reach (Up-river) sampling
- Porewater background sampling for metals
- **Reporting**

Commented [CL10]: Assume all of the data objectives originally in SOW was moved to Work Plan?

3.2 The Work Plan (Attachment A) includes the items enumerated in paragraphs 3.2 (a) through (e):

- (a) A brief description of the media to be sampled, contaminants or parameters for which sampling will be conducted, location (areal extent and depths), and number of samples;
- (b) A description of the overall management strategy for performing the PDI;
- (c) A description of the responsibility and authority of all organizations and key personnel involved with the development of the PDI;
- (d) **The HASP, QAPP, and DQMP will be submitted as specified in the schedule set forth in ¶ 6.2 (“PDI Schedule”);**
- (e) A schedule for performance of the Work and submission of the PDI Evaluation Report discussed in paragraph 3.3. below.

Formatted: Font: Bold

Commented [CL11]: If this is not in the Work Plan, then this should not be in this list but can be referenced later or in a footnote.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

3.3 **PDI Evaluation Report.** Following the sampling events outlined in the Work Plan, Respondents shall submit a PDI Evaluation Report described more fully in Section 3.3 of the Work Plan. This report must include:

Commented [KE12]: EPA insists the title PDI Data Summary Report be retained and references to “evaluation” be removed throughout this section and Section 6.2 (Deliverable item 3).

- (a) Summary of the investigations performed;
- (b) Summary of investigation results and identification of existing conditions;
- (c) Summary of validated data (i.e., tables and graphics);
- (d) Data validation reports (Tier II) and laboratory data reports;
- (e) Photographs documenting the work;
- (f) Angler survey information processed to eliminate all Personal Identifying Information (PII);
- (g) An evaluation of and technical data supporting the activities identified in Work Plan Section 3.3 to be provided in the form of Excel spreadsheets after data validation, with citation of appropriate data validation reports (see 3.3(d)) and with the evaluations described in Work Plan Section 3.3.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

3.4 Meetings and Inspections. Respondents shall meet with EPA to discuss PDI issues as necessary and, as directed or determined by EPA. Meetings and inspections will include:

- (a) **PDI Conference.** Respondents shall hold one PDI conference with EPA and others as directed or approved by EPA. Respondents shall prepare minutes of the conference and shall distribute the minutes to all Parties.
- (b) **Periodic Meetings.** During the conduct of the Work, Respondents shall meet regularly with EPA, as directed or determined by EPA (assume one meeting every 1-2 months), to discuss status, access, and other issues. Respondents shall distribute an agenda and list of attendees to all Parties prior to each meeting. Respondents shall prepare minutes of the meetings and shall distribute the minutes to all Parties.
- (c) **Inspections**
 - (1) EPA shall conduct periodic inspections of or have an on-site presence during the PDI field work. At EPA's request, the Supervising Contractor or other designee shall accompany EPA during inspections.
 - (2) Respondents shall provide personal protective equipment needed for EPA personnel and any oversight officials to perform their oversight duties, including personal flotation devices when overseeing over-water portions of the PDI field work,
 - (3) Upon notification by EPA of any deficiencies in the Work, Respondents shall take all necessary steps to correct the deficiencies. ~~If applicable and reasonably achievable,~~ Respondents and EPA shall both comply with any schedule provided by EPA in its notice of deficiency, unless a dispute resolution process is initiated under Section XIV of the ASAOC.

Commented [CL13]: This isn't consistent with 8.1.1.(c) of AOC says will meet at least monthly and provide monthly progress reports

3.5 Emergency Response and Reporting

- (a) **Emergency Response and Reporting.** If any event occurs in the performance of the PDI field work that causes or threatens to cause a release of Waste Material on, at, or from the Site and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondents shall: (1) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (2) immediately notify the authorized EPA officer (as specified in ¶ 3.5(c)) orally; and (3) take such actions in consultation with the authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plan, the Emergency Response Plan, and any other deliverable approved by EPA under the SOW.
- (b) **Release Reporting.** Upon the occurrence of any event in the performance of the PDI field work that Respondents are required to report pursuant to Section 103 of

Commented [CL14]: They deleted: "In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Costs). Have we agreed to this too? This is not considered Work Takeover!"

DRAFT
FOR SETTLEMENT PURPOSES ONLY

CERCLA, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), 42 U.S.C. § 11004, Respondents shall immediately notify the authorized EPA officer orally.

- (c) The “authorized EPA officer” for purposes of immediate oral notifications and consultations under ¶ 3.5(a) and ¶ 3.5(b) is the EPA Project Coordinator, the EPA Alternate Project Coordinator (if the EPA Project Coordinator is unavailable), or the EPA Emergency Response Unit, Region 10 (if neither EPA Project Coordinator is available).
- (d) In addition, in the event of any release of a hazardous substance to the Portland Harbor Site **while the Work is being performed that is caused by or results from the Work**, Respondents shall immediately notify the EPA Project Coordinator and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001, et seq.
- (e) The reporting requirements under ¶ 3.5 are in addition to the reporting required by CERCLA § 103 or EPCRA § 304.

Formatted: Font: Bold

Commented [CL15]: This is their addition. Ok?

4. REPORTING

4.1 Progress Reports. Commencing with the month following the effective date of the ASAOC and until termination of the Work under Section XXVIII of the ASAOC, Respondents shall submit progress reports to EPA monthly, or as otherwise requested by EPA. The reports must cover all activities that took place during the prior reporting period, including:

- (a) The actions that have been taken toward achieving compliance with the ASAOC;
- (b) Results of all sampling, validated test results, and all other data received or generated upon request;
- (c) A description of all deliverables that Respondents submitted to EPA;
- (d) A description of all activities relating to the Work that are scheduled for the next six weeks;

Commented [KE16]: EPA should not have to request data.

Commented [17]: These changes were proposed by EPA in its 9/20/17 outline of “Second Tier Drafting Issues.” The Pre-RD Group requests clarification as to the types of data in addition to validated test results that EPA would like included in these reports.

~~(e)~~5.

Formatted: LVL 1

- ~~(e)~~(a) An updated PDI Schedule, together with information regarding percentage of completion, delays encountered or anticipated that may affect the future schedule

for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays;

~~(f)~~(b) A description of any modifications to the work plans or other schedules that Respondents have proposed or that have been approved by EPA; and

~~(g)~~(c) A description of all activities undertaken in support of the CIP during the reporting period and those to be undertaken in the next six weeks.

4.25.2 Notice of Progress Report Schedule Changes. If the schedule for any activity described in the Progress Reports, including activities required to be described under ¶ 4.1(d), changes, Respondents shall notify EPA of such change at least 7 days before the scheduled date for performance of the activity.

5.6. DELIVERABLES

5.16.1 Applicability. Respondents shall submit deliverables for EPA approval or for EPA comment as specified in Work Plan Section 5.2. Paragraphs ~~6~~5.2 (In Writing) through ~~6~~5.4 (Technical Specifications) apply to all deliverables. Paragraph ~~6~~5.5 (Certification) applies to any certification of deliverables. Paragraph ~~6~~5.6 (Approval of Deliverables) applies to any deliverable that is required to be submitted for EPA approval.

Commented [CL18]: I don't think this reference to Work Plan is correct. Isn't this the place which states how deliverables are submitted for EPA approval?

5.26.2 In Writing. All deliverables under this SOW must be in writing unless otherwise specified.

5.36.3 General Requirements for Deliverables. All deliverables must be submitted by the deadlines in the Schedule of the Work Plan, as applicable and as it may be amended from time to time with EPA's approval. Respondents shall submit all deliverables to EPA in electronic form.

5.46.4 Technical Specifications

- (a) Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable (EDD) format (Appendix ~~B~~). Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes. All data must be formatted such that they can be easily uploaded to the Site database.
- (b) Spatial data, including spatially-referenced data and geospatial data, should be submitted: (1) in the ESRI File Geodatabase format; and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum, consistent with the RI. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented (four aspects include projection, zone, datum, and units). Spatial data should be accompanied by metadata, and such metadata should be compliant with

Commented [CL19]: Need to check with Sean if there are any more specific electronic formatting requirements to meet 508 requirements or anything else.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with these FGDC and EPA metadata requirements and is available at <https://edg.epa.gov/EME/>. Respondents are required to upload data collected to EPA's Water Quality Exchange (WQX) in a manner approved in advance by EPA.

- (c) Each file must include an attribute name for each site unit or sub-unit submitted. Consult <http://www.epa.gov/geospatial/policies.html> for any further available guidance on attribute identification and naming.

5.56.5 Certification. All deliverables that require compliance with this ¶ 5.5 must be signed by the Respondents' Project Coordinator, or other responsible official of Respondents, and must contain the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

5.66.6 Approval of Deliverables

- (a) **Initial Submissions.** After review of any deliverable that is required to be submitted for EPA approval under the SOW, EPA shall: (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.
- (b) **Resubmissions.** Upon receipt of a notice of disapproval under ¶ 5.6(a) (Initial Submissions), or if required by a notice of approval upon specified conditions under ¶ 5.6(a), Respondents shall, within 30 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval unless a dispute resolution process is initiated under Section XIV of the ASAO. After review of the resubmitted deliverable, EPA shall: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) disapprove, in whole or in part, the resubmission, requiring Respondents to correct the deficiencies; or (4) any combination of the foregoing.
- (c) **Implementation.** Upon approval or approval upon conditions, by EPA under ¶ 5.6(a) (Initial Submissions) or ¶ 5.6(b) (Resubmissions), of any deliverable, or any portion thereof: (1) such deliverable, or portion thereof, will be incorporated

Commented [CL20]: They deleted EPA's subparagraph (d): "Spatial data submitted by Respondents does not, and is not intended to, define the boundaries of the Site." Is that model language?

Commented [CL21]: I don't see where it specifies which deliverables need to be certified?

Commented [22]: In its 9/20/17 outline of "Second Tier Drafting Issues," EPA proposed that, in addition to the options listed here, it also have the ability to "modify" submissions under certain circumstances. The Pre-RD Group believes that the options provided here coupled with the dispute resolution provisions in the ASAO provide EPA the appropriate tools for challenging the content of any submittal.

Commented [CL23R22]: THIS IS A BIG ISSUE Modifying both an initial and/or a resubmitted deliverable is not considered Work Takeover, its another process for approving a deliverable. The Respondents can dispute our modifications. If we comment on a deliverable and they don't address that comment in a later deliverable, then we should be able to modify the deliverable per our comment and Respondents can decide if they want to dispute. EPA should not be forced to dispute every comment we make that they don't address. That would be very inefficient and raise the profile of many relatively small changes to dispute status. Disputing issues should be deterred by forcing the Respondents to raise them, not EPA.

into and enforceable under the ASAOC; and (2) Respondents shall take any action required by such deliverable, or portion thereof unless any condition to approval is disputed and a dispute resolution is initiated under Section XIV of the ASAOC. The implementation of any non-deficient portion of a deliverable submitted or resubmitted under ¶ 5.6(a) or ¶ 5.6(b) does not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties) of the ASAOC.

5.76.7 Supporting Deliverables to PDI Work Plan. Respondents shall submit each of the following supporting deliverables for EPA approval, except as specifically provided. The deliverables must be submitted, for the first time, by the deadlines in the EPA-approved schedule, as applicable. Respondents shall develop the deliverables in accordance with all applicable regulations, guidance, and policies (see Section 8 (References)). Respondents shall update each of these supporting deliverables as necessary or appropriate during the Work, and/or as requested by EPA.

- (a) **Health and Safety Plan.** The Health and Safety Plan (HASP) describes all activities to be performed to protect on site personnel and area residents from physical, chemical, and all other hazards posed by the Work. Respondents shall develop the HASP in accordance with EPA's Emergency Responder Health and Safety and Occupational Safety and Health Administration (OSHA) requirements under 29 C.F.R. §§ 1910 and 1926. EPA does not approve the HASP, but will review it to ensure that all necessary elements are included and that the plan provides for the protection of human health and the environment. The plan will include appropriate elements of an Emergency Response Plan to cover field activities in the event of an accident or emergency at the Site (e.g. power outages, slope failure, spill releases, etc.) and notification requirements. Work may not commence until EPA comments on the HASP have been resolved.
- (b) **Quality Assurance Project Plan.** The Quality Assurance Project Plan (QAPP) addresses all sample collection activities as well as sample analysis and data handling regarding the Work. It must be written so that a field sampling team unfamiliar with the project would be able to gather the samples and field information required. A separate Field Sampling Plan (FSP) is not required. Instead, this information is incorporated into the Quality Assurance Project Plan. The QAPP developed by the Lower Willamette Group for the RI/FS will be used where methods are consistent, and the Pre-RD QAPP will include amendments where the methods are different.

The QAPP must include a detailed explanation of Respondents' quality assurance, quality control, and chain of custody procedures for all treatability, design, compliance, and monitoring samples. Respondents shall develop the QAPP in accordance with *EPA Requirements for Quality Assurance Project Plans*, QA/R-5, EPA/240/B-01/003 (Mar. 2001, reissued May 2006); *Guidance for Quality Assurance Project Plans.*, QA/G-5, EPA/240/R 02/009 (Dec. 2002); and *Uniform*

DRAFT
FOR SETTLEMENT PURPOSES ONLY

Federal Policy for Quality Assurance Project Plans, Parts 1-3, EPA/505/B-04/900A through 900C (Mar. 2005). The QAPP also must include procedures:

- (1) To ensure that EPA and its authorized representative have reasonable access to laboratories used by Respondents in implementing the ASAOC (Respondents' Labs);
- (2) To ensure that Respondents' Labs analyze all samples pursuant to the QAPP for quality assurance monitoring;
- (3) To ensure that Respondents' Labs perform all analyses using EPA-accepted methods (i.e., the methods documented in *USEPA Contract Laboratory Program Statement of Work for Inorganic Analysis*, ILM05.4 (Dec. 2006); *USEPA Contract Laboratory Program Statement of Work for Organic Analysis*, SOM01.2 (amended Apr. 2007); and *USEPA Contract Laboratory Program Statement of Work for Inorganic Superfund Methods (Multi-Media, Multi-Concentration)*, ISM01.2 (Jan. 2010)) or other methods acceptable to EPA;
- (4) To ensure that Respondents' Labs participate in an EPA-accepted QA/QC program or other program QA/QC acceptable to EPA;
- (5) For Respondents to provide EPA with notice at least 7 days prior to any sample collection activity;
- (6) For Respondents to provide split samples for any purposes and/or duplicate samples for quality assurance/quality control purposes, to the extent feasible, to EPA upon request;
- (7) For EPA to provide to Respondents, upon request, split samples and/or duplicate samples in connection with EPA's oversight sampling; and
- (8) For Respondents to submit to EPA all validated sampling and tests results and other data in connection with the implementation of the ASAOC.

- (c) **Field Sampling Plan for Pre-Remedial Investigation Studies.** The field sampling plan (FSP), incorporated as a subsection of the QAPP, provides objectives and minimum sampling requirements. It includes guidelines for sediment, surface water, and small mouth bass. Preliminary RD characterization will focus on delineating horizontal and vertical extent of contamination associated with SMAs, small mouth bass fish tissue, and other tasks listed in Section 3.1. The sampling will provide up-to-date information on the extent of contamination in affected media, identify existing conditions, and include a statistically valid data set that could be used to evaluate ROD RAOs. The FSP must include:

Commented [CL24]: They deleted another issue QUAPP needs to provide: "For EPA to take any additional samples that it deems necessary." Was that agreed to?

Commented [25]: This change was requested by EPA in its 9/20/17 outline of "Second Tier Drafting Issues." As in Comment 1, the Pre-RD Group requests clarification as to the types of data in addition to validated test result that EPA has in mind.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

- (1) Description of environmental media to be sampled;
 - (2) Description of data collection parameters, including existing and proposed monitoring devices and locations, analytical parameters to be assessed, analytical methods employed, supporting rationale for the sample components and their relationship to ROD RAOs, metrics, and targets (fish tissue);
 - (3) Description of how data will be analyzed, interpreted, and reported, and/or other Site-related requirements;
 - (4) Description of verification sampling procedures.
- (d) A Data Quality Management Plan (DQMP) that presents how the data will be managed, reported, and consistently formatted for uploading to EPA data repositories shall be included in the Work Plan.

Commented [CL26]: Paragraph 3.2 Above, they say the DQMP will be provided as a deliverable after the Work Plan. Which is it?

6.7. SCHEDULES

6.17.1 Applicability and Revisions. All deliverables and tasks required under this SOW must be submitted or completed by Respondents and/or EPA (as applicable) by the deadlines or within the time durations listed in the schedule set forth below and/or approved as part of the PDI Work Plan unless a dispute resolution process is initiated under Section XIV of the ASAOC. Respondents and EPA may submit to each other a proposed revised schedule for approval. Upon approval by all Parties, the revised schedule supersedes the schedule set forth below, and any previously-approved schedule. Any denial of a request for revisions to the schedule may be subject to resolution under Section XIV of the ASAOC.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

6.27.2 PDI Schedule (Days in this schedule are calendar days.)

Commented [KE27]: EPA requires a minimum 2-week notice prior to the start of each field activity.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

	Description of Deliverable, Task	Included Supporting Deliverable	¶ Ref.	Deadline
+				
1	HSP, QAPP, DQMP		¶¶ 3.1, 5.7	<p>Respondents will submit within 30 days after effective date of ASAOC.</p> <p>EPA will review the documents as described in Section 7.1 of this SOW and submit comments and any requested changes to Respondents within 30 days after receipt.</p> <p>Respondents will revise the documents within 15 days.</p>
2	<u>Pre-RD</u> Remedial SMA Footprint Report		Work Plan	<p>Respondents will submit by January 7, 2018.</p> <p>EPA will review the report and submit comments and any requested changes to Respondents within 30 60 days after receipt.</p> <p>Respondents will revise the document within 30 days after receiving comments.</p>
3	PDI Evaluation Report		3.3	<p>Respondents will submit by May 9, 2019.</p> <p>EPA will review the report and submit comments and any requested changes to Respondents within 30 60 days after receipt.</p> <p>Respondents will revise the document by July 29, 20197.</p>
4	Monthly progress reports		4.1	Due by the 15 th day of the month following the reporting month.

Commented [28]: In its 9/20/17 outline of "Second Tier Drafting Issues," EPA proposed that each of its deadlines below be qualified with language indicating that EPA would meet the schedule "to the extent practicable." The Pre-RD Group is willing to commit to the schedule and believes that EPA will need to meet its deadlines as well for the work to be completed in time.

Commented [CL29R28]: What is their remedy if EPA does not meet their review/comment schedule?

~~7.8.~~ STATE AND TRIBAL AND AGENCY PARTNER PARTICIPATION

EPA shall be responsible to coordinate with the Natural Resources Trustees and provide for Tribes with natural resources and tribal treaty-rights to participate in the ~~Site~~.

Commented [CL30]: They deleted language requiring them to send copies of everything they submit to EPA to the Trustees and Tribes. They also deleted model language relative to State/Trustees/Tribes having a reasonable opportunity to review and comment on deliverables.

~~8.9.~~ REFERENCES

~~8.19.1~~ The following regulations and guidance documents, among others, apply to the Work. Any item for which a specific web address is not provided below is available on one of the two EPA web pages listed in ¶ 8.2:

- (a) A Compendium of Superfund Field Operations Methods, OSWER 9355.0-14, EPA/540/P-87/001a (Aug. 1987).
- (b) CERCLA Compliance with Other Laws Manual, Part I: Interim Final, OSWER 9234.1-01, EPA/540/G-89/006 (Aug. 1988).
- (c) CERCLA Compliance with Other Laws Manual, Part II, OSWER 9234.1-02, EPA/540/G-89/009 (Aug. 1989).
- (d) Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties, OSWER 9355.5-01, EPA/540/G-90/001 (Apr. 1990).
- (e) Guidance on Expediting Remedial Design and Remedial Actions, OSWER 9355.5-02, EPA/540/G-90/006 (Aug. 1990).
- (f) Guide to Management of Investigation-Derived Wastes, OSWER 9345.3-03FS (Jan. 1992).
- (g) Permits and Permit Equivalency Processes for CERCLA On-Site Response Actions, OSWER 9355.7-03 (Feb. 1992).
- (h) National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule, 40 C.F.R. Part 300 (Oct. 1994).
- (i) EPA Guidance for Data Quality Assessment, Practical Methods for Data Analysis, QA/G-9, EPA/600/R-96/084 (July 2000).
- (j) Guidance for Quality Assurance Project Plans, QA/G-5, EPA/240/R-02/009 (Dec. 2002).

DRAFT
FOR SETTLEMENT PURPOSES ONLY

- (k) Quality Systems for Environmental Data and Technology Programs -- Requirements with Guidance for Use, ANSI/ASQ E4-2004 (2004).
- (l) Uniform Federal Policy for Quality Assurance Project Plans, Parts 1-3, EPA/505/B-04/900A through 900C (Mar. 2005).
- (m) Superfund Community Involvement Handbook, EPA/540/K-05/003 (Apr. 2005).
- (n) EPA Guidance on Systematic Planning Using the Data Quality Objectives Process, QA/G-4, EPA/240/B-06/001 (Feb. 2006).
- (o) EPA Requirements for Quality Assurance Project Plans, QA/R-5, EPA/240/B-01/003 (Mar. 2001, reissued May 2006).
- (p) EPA Requirements for Quality Management Plans, QA/R-2, EPA/240/B-01/002 (Mar. 2001, reissued May 2006).
- (q) USEPA Contract Laboratory Program Statement of Work for Inorganic Analysis, ILM05.4 (Dec. 2006).
- (r) USEPA Contract Laboratory Program Statement of Work for Organic Analysis, SOM01.2 (amended Apr. 2007).
- (s) EPA National Geospatial Data Policy, CIO Policy Transmittal 05-002 (Aug. 2008), available at <http://www.epa.gov/geospatial/policies.html> and http://www.epa.gov/geospatial/docs/National_Geospatial_Data_Policy.pdf.
- (t) USEPA Contract Laboratory Program Statement of Work for Inorganic Superfund Methods (Multi-Media, Multi-Concentration), ISM01.2 (Jan. 2010).
- (u) EPA's Emergency Responder Health and Safety Manual, OSWER 9285.3-12 (July 2005 and updates), <http://www.epaossc.org/HealthSafetyManual/manual-index.htm>

8.29.2 A more complete list may be found on the following EPA Web pages:

Laws, Policy, and Guidance <http://www.epa.gov/superfund/policy/index.htm>

Test Methods Collections <http://www.epa.gov/fem/methcollectns.htm>

8.39.3 For any regulation or guidance referenced in the ASAOC or SOW, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondents receive notification from EPA of the modification, amendment, or replacement.

DRAFT
FOR SETTLEMENT PURPOSES ONLY

Attachment A

Work Plan for Pre-RD Investigation and Baseline Sampling

DRAFT
FOR SETTLEMENT PURPOSES ONLY

Attachment B

Electronic Data Deliverable Format